

REMARKS

Claims 1-4 and 6-55 are pending in this application. Claim 5 was previously cancelled. Claims 1, 13, 15, 27, 28, 37 and 38 are amended. Claims 47-50 are withdrawn.

Claims 42-46 and 51-55 have been rejected under 35 USC §112, first paragraph, as being non-enabled. Applicants submit that this rejection is not well founded and should be withdrawn. The physiological role of the neurotransmitter histamine is well documented and is fully described in the Background of the Invention section of the instant specification. The actions of this neurotransmitter at the various histamine receptors is also described in this section of the specification, with supporting citations to literature references which report how the actions of histamine are mediated by these receptors. The specification also details the numerous therapeutic applications of histamine H₃ agonists that have been investigated and reported in the literature. The cited literature references and the test results reported therein suggest to a person skilled in the art that H₃ agonists would be effective in treating or preventing the diseases and disorders recited in the rejected claims. In view of the large body of information documenting the physiological role of histamine and the potential therapeutic applications of H₃ agonists, and further in view of the detailed teachings in the specification regarding the claims compounds, applicants submit that a person skilled in the art would be able to practice the methods recited in claims 42-46 and 51-55. Accordingly, applicants request that the rejection set forth in paragraph 3 of the Office Action be withdrawn.

In paragraph 4 of the Office Action, claims 2-4, 6-46 and 51-55 were rejected under 35 USC §112, second paragraph, as being indefinite. In view of the amendment to line 1 of claim 1 and the correction of the typographical errors in claims 13 and 15, all as set forth above, applicants believe that the rejections recited in paragraphs 4a)-c) of the Office Action have been traversed. Claim 27 has been amended to remove the word “cyano” and insert the word “amino”. Claim 1 provides antecedent basis for this amendment. Accordingly, applicants submit that the rejection set forth in paragraph 4d) has been traversed. Applicants believe that the rejections set forth in paragraphs 4e)- h) of the Office Action have been traversed by the amendments to claims 27 set forth above.

Applicants submit that the rejection of claims 44-45 and 55 set forth in paragraph 4i) of the Office Action is not well founded and should be withdrawn. As noted above, the

physiological role of histamine at the various histamine receptors and the potential therapeutic role of H₃ agonists has been extensively investigated and reported in the literature. The compounds of the invention have been fully described and data suggesting the efficacy of these compounds in treating the claimed disorders has been provided. In view of the broad body of knowledge available to those skilled in the art regarding H₃ agonists and the detailed teachings provided in the specification regarding the claimed compounds, those skilled in the art would be able to determine which disorders could be treated with the claimed compounds and how the claimed compounds should be employed to treat those disorders. Accordingly, applicants request that the rejection issued in paragraph 4i) of the Office Action be withdrawn.

Claims 1-2, 6-10, 21, 42-46 and 51-55 have been rejected under 35 USC 102(b) as being anticipated by EP 0 186 817. Applicants submit that this rejection has been traversed in view of the first newly added proviso to claim 1.

Claims 1-2, 6-10, 12-15, 18, 31, 35-38, 42-46 and 51-55 have been rejected under 35 USC 102(b) as being anticipated by the public availability of Example 43. Applicants submit that this rejection has been traversed in view of the second newly added proviso to claim 1. With respect to the Examiner's request for additional information regarding the sale of the compound of Example 43, applicants advise that they have no information to provide beyond that already provided in the letter of attorney John Harbour dated August 26, 2005. Attorney Harbour has admitted that the compound was purchased on a non-confidential basis sometime before June 27, 2001, more than a year before the earliest priority date to which this application is entitled.

In view of the foregoing, applicants submit that the claims are in condition for allowance and favorable action is requested at the earliest possible date.

Applicants submit herewith a Third Supplemental Information Disclosure Statement.

Applicants do not believe that any fees are required in connection with the filing of this response. Should any fees be required, please charge Deposit Account No. 10-0750/PRD2033/JSK.

Should the Examiner have any questions regarding this Response, please contact the undersigned attorney at the telephone number listed.

Respectfully submitted,

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